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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/274,197	03/22/1999	YOSHIHISA FUJIOKA	2309/0F390	8108

7590 01/23/2004

DARBY & DARBY
805 THIRD AVENUE
NEW YORK, NY 10022

EXAMINER

REICHLER, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/274,197

Applicant(s)

FUJIOKA ET AL.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,8,9, 15 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) 6,8,9,18,20,21,24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15,19,22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to-restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election of the species of Figures 8A and 8B in Paper No. 16 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). The election of species requirement is thus deemed proper and made FINAL.

2. Claims 6, 8-9, 18, 20-21 and 24-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 16.

Specification

3. It is noted the amendments to page 4, line 24-page 6, line 4 and page 6, line 24-page 7, line 4 filed 5-19-03 still did not comply with 37 CFR 1.121 as was applicable 5-19-03. The marked up and or clean copy were changed in red ink by the Examiner to bring them into compliance.

Drawings

4. The drawings are objected to because in Figures 1A and 2 the line from 23 should be dashed to denote underlying structure(Applicant's attention is invited to the line from 23 in Figure 1B as an example). This also applies to the line from 24 and the members 24 in Figure 1A-2. In Figures 2, 3, and 5, the lines from 24 and 5 should be dashed to denote underlying

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structure. In Figure 4, the same lines extend to two different denotations, e.g. 22a and (a), which should be avoided. Differently configured structure have been given the same designation, e.g. 28 in Figures 1C and 5. Where in Figure 4 are elements 26 and 28, see descriptions of Figures 3 and 4? In Figures 6A-6B and 8A-9, the underlying elastic members should also be shown by dashed line elements. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Description

5. The abstract of the disclosure is objected to because lines 2 and 5 are still grammatically incorrect. Correction is required. See MPEP § 608.01(b).

Claim Language Interpretation

6. The terminology "first", "second" or "third" "adhesive means" in claims 19 and 22 does not invoke 35 USC 112, sixth, paragraph as the terminology does not set forth the proper "means plus function" format, e.g. first means for...

Claim Objections

7. Claims 15, 19 and 22-23 are objected to because of the following informalities: in claim 22, line 13 would be in better form if after "backing layer", --opposite the surface adjacent the core-- were inserted. In claim 19, lines 2 and 4, "another" should be --the other--. In claims

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19 and 22, "means"(all) should be deleted, see preceding paragraph. Appropriate correction is required.

Allowable Subject Matter

8. The following is a statement of reasons for the indication of allowable subject matter: Claims 15, 19, 22 and 23 as best understood require first and second adhesives, see description at page 13, line 6-page 15, line 14, of various adhesive force as set forth in claim 22. The combination of such adhesives and the other structure set forth in claim 22 distinguish over the prior art.

9. Claims 6, 8-9, 18 and 20-21, directed to the species of the Figures other than Figures 8A and 8B are still withdrawn from further consideration since they do not depend upon or otherwise include each of the limitations of an allowed generic claim as required by 37 CFR 1.141. Claim 22 is a nongeneric claim.

Response to Arguments

10. Applicant's remarks have been considered but are either deemed moot in that the issue discussed has not been repeated or deemed nonpersuasive for the reasons set forth supra.

Conclusion

11. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. This application contains claims 6, 8-9, 18, 20-21 and 24-25 drawn to an invention nonelected with traverse in Paper No. 16. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

K. M. Reichle
Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
January 20, 2004